

IN THE UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF TEXAS
FORT WORTH DIVISION

U.S. DISTRICT COURT
NORTHERN DISTRICT OF TEXAS

FILED

JUL 20 2010

CLERK, U.S. DISTRICT COURT

By _____
Deputy

PATRICIA TUSKEN,

§

§

§

VS.

NO. 4:08-CV-657-A

MICHAEL J. ASTRUE,
COMMISSIONER OF SOCIAL
SECURITY,

§

§

§

§

Defendant.

§

O R D E R

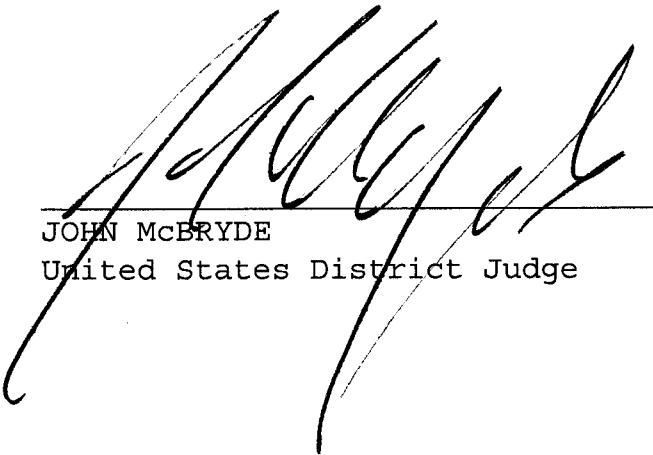
Came on for consideration the above-captioned action wherein Patricia Tusken is plaintiff and Michael J. Astrue, Commissioner of Social Security, is defendant. This is an action for judicial review of a final decision of the Commissioner denying plaintiff's application for disability insurance benefits and supplemental security income under Titles II and XVI of the Social Security Act. On May 25, 2010, the United States Magistrate Judge issued his proposed findings and conclusions and his recommendation and granted the parties until June 15, 2010, to file and serve objections. Neither party filed objections. Upon review of the Magistrate Judge's findings and conclusions, the filings of the parties, and the record, the court accepts the

Magistrate Judge's proposed findings and conclusions and his recommendation.

Therefore,

The court ORDERS that the final decision of the Commissioner be, and is hereby, reversed, and that plaintiff's claim be, and is hereby, remanded to the Commissioner pursuant to the fourth sentence of 42 U.S.C. § 405(g)¹ for further proceedings consistent with the Magistrate Judge's findings and conclusions.

SIGNED July 20, 2010.


JOHN McBRYDE
United States District Judge

¹As explained by the Supreme Court, a remand pursuant to sentence six of § 405(g) may be ordered only where the Commissioner "requests a remand before answering the complaint, or where new, material evidence is adduced that was for good cause not presented before the agency." Shalala v. Schaefer, 509 U.S. 292, 297 n.2 (1993). Neither of those circumstances is before the court in this action.